Office of Chief Counsel Internal Revenue Service

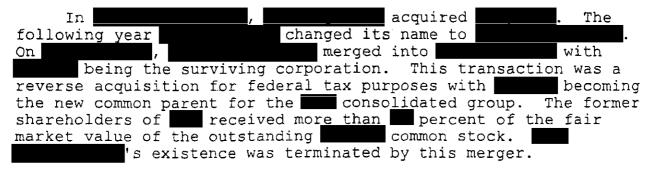
memorandum

CC:NER:PEN:PIT:TL-N-4021-00
EJLaubach

	CC:NER:PEN:PIT:TL-N-4021-00 EJLaubach
date:	
to:	Jerry Fisher Team Manager, Group 1344
from:	Associate District Counsel, Pennsylvania District, Pittsburgh
ubje c t:	Proper Caption Following Merger of and and
	re: EIN:
	You have requested our advice: -
	ISSUE
(What is the proper caption which should appear on consents to extend the statutory period for assessment, closing agreements, and other documents for after it changed its name to and then merged into in a reverse acquisition.
	CONCLUSION
	The proper identification for on consents to extend the assessment period or on notices of deficiency should be "(EIN: "), as successor by merger to agent for the consolidated group for the group's taxable years ." On other documents, such as closing agreements, the taxpayer should be described as "(EIN: "), as successor by merger to formerly known as ."

DISCUSSION

consolidated income tax returns in the name of for the years through , which years are currently under examination. The Examination team wishes to secure consents to extend the statute of limitations on assessment and Appeals is in the process of preparing closing agreements for some of the issues involved in these years. Both Exam and Appeals have sought our advice how their consents, closing agreements, and other documents should be captioned since



We believe that the proper party to execute consents, closing agreements, and other documents is the successor by merger to the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, closing agreements, and other documents is the proper party to execute consents, and other documents is the proper party to execute consents, and other documents is the proper party to execute consents, and other documents is the proper party to execute consents, and other documents is the proper party to execute consents and the proper party to execute consents are proper party to execute consents and the proper party to execute consents are proper party to execute consents and the proper party to execute consents are proper party to execute consents and the proper party

engaged in a reverse acquisition with
for tax purposes. Its existence terminated following the merger
and became the new common parent of the affiliated
group. In Southern Pacific Company v. Commissioner, 84 T.C. 395
(1985), the Tax Court held that in a reverse acquisition
transaction where the old common parent goes out of existence, the
new common parent becomes the agent for the affiliated group for
both pre- and post-reverse acquisition years. Thus, the rule of
Treas. Reg. § 1.1502-75(d)(3)(i), which provides that the acquiring
corporation becomes the new common parent of the old consolidated
group, applies to determine which entity becomes the common parent
for years before and after the reverse acquisition. See also
Interlake Corp. v. Commissioner, 112 T.C. 103, 113-14 (1999).
Thus, under Southern Pacific, would be the proper party to
execute any documents for the pre-reverse acquisition years of

In addition, Treas. Reg. § 1.1502-77T sets forth alternative agents for a consolidated group for purposes of signing consents to extend the statutory period of assessment or for issuing a notice of deficiency if the common parent ceases to be the common parent.¹

¹This regulation only applies for purposes of securing consents to extend the statute of limitations or issuing a notice of deficiency. It does not include closing agreements.

Under § 1.1502-77T(4)(ii) a consent to extend the period of assessment can be executed by a successor to the former common parent in a transaction to which section 381(a) applies. A merger would qualify under section 381(a). Section 1.1502-77T(4)(iv) also follows the <u>Southern Pacific</u> holding that, if a consolidated group remains in existence under the reverse acquisition rules, the common parent of the group at the time that a waiver is given may execute the consent. Under either provision, the proper entity again to execute a consent for the old consolidated group would be

Accordingly, the caption of any consent or notice of
<pre>deficiency under Treas. Reg. § 1.1502-77T should read, "</pre>
. (EIN:), as successor by merger to
(EIN:) and as alternative agent for the
consolidated group for the group's taxable years"
Closing agreements and other legal documents should be captioned,
(EIN:), as successor by merger to
(EIN:), formerly known as

If you have any questions, please call Attorney Edward J. Laubach, Jr. at 412-644-3443.

EDWARD F. PEDUZZI, JR. Associate District Counsel